REPRESENTATIVE OF THE ESTATE OF KUAN MEI LING, DECEASED (PROVISIONAL LIQUIDATOR OF THE RESPONDENT COMPANY)

v.

METROPLEX BHD

COURT OF APPEAL, PUTRAJAYA
KN SEGARA JCA
ABU SAMAH NORDIN JCA
RAMLY ALI JCA
[CIVIL APPEAL NO: W-02(IM)-2375-2009]
29 NOVEMBER 2011

COMPANY LAW: *Liquidator - Provisional liquidator - Duties of - Appointment by court order - Claim for remuneration - Whether provided sufficient supporting information - Whether costs and expenses reasonably incurred - Whether owed fiduciary duty to act fairly and in interest of respondent - Whether provisional liquidator breached fiduciary duty - Whether claim reasonable - Companies Act 1965, ss. 231 & 232(2)*

The appellant was the previous provisional liquidator ('PL') who was appointed by the court for the respondent company. The respondent through its subsidiary, Metroplex Holdings Sdn Bhd, which owned the building known as Putra Place, had entered into a sale and purchase agreement with the Employees' Provident Fund ('EPF') to sell the building for RM438.33 million. The petitioner in the winding-up proceedings against the respondent applied by way of an injunction to restrain the completion of the said EPF sale for a variety of reasons, including, *inter alia*, that the sale price was at an undervalue. For the purpose of the said injunction application, the court appointed the PL, now deceased, as the provisional liquidator for specific purpose only, *ie*, (i) to ascertain the disposal alternatives for Putra Place; and (ii) to submit a report as to the current market value of Putra Place. Since the petitioner in the winding-up proceedings withdrew the injunction application, the PL's appointment to ascertain the disposal alternatives as earlier ordered by the court became redundant. In the meantime, it was not in dispute that the valuation reports were duly prepared and produced. *Vide*

encl. 134, the PL filed an application to the High Court under s. 232(2) of the Companies Act 1965 ('the Act') for remuneration and costs incurred for the work done by her between 25 May 2006 and 27 June 2006 for an amount of RM544,562.78 comprising of, *inter alia*, (i) RM333,919.50 being the fees payable to the professional valuers, Knight Frank, in respect of the valuation reports; (ii) RM185,792.25 and RM4,844.83 being the PL's costs involved in preparing the report on the disposal alternatives for the said Putra Place; and (iii) RM13,043 being the solicitors costs. The court dismissed the PL's claim for professional remuneration and costs for her work done but allowed her claim for the solicitors costs. Dissatisfied with the said decision, the appellant appealed to this court.

Held (dismissing appeal with costs)

Per Ramly Ali JCA delivering the judgment of the court:

(1) A provisional liquidator may under s. 231 of the Act be appointed by the winding up court at any time after the presentation of a winding up petition and before making a winding up order. The provisional liquidator shall have and may exercise the functions and powers of a liquidator subject to such limitations and restrictions as may be prescribed by the rules or as the court may specify in the order appointing him. A provisional liquidator, other than the official receiver, shall be entitled to receive such salary or remuneration by way of percentage or otherwise as is determined by the court. (paras 9 & 10)

(2) In exercising its power to determine the salary or remuneration of a provisional liquidator, the court applies the test of what is fair and reasonable remuneration to be awarded in the circumstances of each particular case, taking into consideration, among others, the complexity of the matter involved and the length of time taken to complete the task given to the provisional liquidator. (para 10)

(3) It is trite that the provisional liquidator may be reimbursed of the expenses properly incurred out of the company's assets that were administered by the provisional liquidator and were held by them. The burden was on the PL to show her entitlement to the fees and costs that she claimed and that the remuneration was justified. Therefore, the PL had

an obligation to provide sufficient supporting information before the court in order to facilitate the court to determine whether the costs were reasonable or not. (para 16)

(3a) The mere filing and producing of reports by the PL did not entitle her to her remuneration. The PL still had to discharge the burden of showing that the costs and expenses incurred in producing the reports were properly and reasonably incurred. (para 16)

(4) The detailed bill as exhibited in the affidavit merely showed the employee's name, item/description, date, quantity, rate and amount of the bill, but no details of the work done were stated. Further, the PL, who had appointed Knight Frank, a professional valuer based in Hong Kong, did not produce any evidence to show that the views of the respondent were sought before the appointment of Knight Frank was made. There were no evidence to show, (i) any compelling reason for the appointment of the Hong Kong firm to do the valuation; (ii) that the fees charged by Knight Frank was competitive; and (iii) that a local Malaysian valuation firm could not have done the job. (paras 18, 19 & 20)

(5) The PL, once appointed, owed the respondent a fiduciary duty to act fairly and objectively in the interest of the respondent. In breach of this fiduciary duty, the PL had failed to ensure that the fees or prices obtained were competitive. (para 20)

(6) The scope of the PL's appointment was merely to obtain valuations of Putra Place and to find out alternatives for its disposal. In the reports produced, the PL also made findings as to the management of Putra Place, which had nothing to do with the mandate given to her. The issue of mismanagement of Putra Place was not within the scope of the valuation and disposal alternatives. Therefore, the provisional liquidator had exceeded the scope of her appointment and had failed to convince the court that her claim for remunerations and costs as claimed *vide* encl. 134 was fair and reasonable. (paras 22 & 23)

[Amount claimed by the PL was to be determined by the deputy registrar, based on the actual work carried out by her. Further, the decision of the High Court in allowing a sum of RM13,043 to be paid out as solicitors costs in preparation of the PL's reports was affirmed].

A ***Bahasa Malaysia*** *Translation Of Headnotes*

Perayu merupakan penyelesai sementara terdahulu ('PS') yang telah dilantik oleh mahkamah bagi syarikat responden. Responden melalui subsidiarinya, Metroplex Holdings Sdn Bhd, yang memiliki B sebuah bangunan yang dikenali sebagai Putra Place, telah memeterai satu perjanjian jual beli dengan Lembaga Kumpulan Wang Simpanan Pekerja ('KWSP') untuk menjual bangunan tersebut pada harga RM438.33 juta. Pempetisyen, dalam prosiding penggulungan terhadap responden, telah memfailkan permohonan C injunksi bagi menghalang penghabisan jualan EPF tersebut atas pelbagai alasan, antara lain, bahawa harga jualan berada pada nilai rendah. Bagi kehendak injunksi tersebut, mahkamah telah melantik PS, yang telah meninggal dunia, sebagai penyelesai sementara hanya untuk tujuan spesifik, iaitu, (i) bagi mengenal pasti pelupusan D alternatif Putra Place; dan (ii) untuk mengemukakan satu laporan berkenaan nilai pasaran semasa Putra Place. Oleh kerana pempetisyen dalam prosiding penggulungan telah menarik balik permohonan injunksi, pelantikan PS bagi mengenal pasti pelupusan alternatif seperti yang diperintahkan tidak diperlukan lagi. Pada E masa yang sama, tidak dipertikaikan bahawa laporan penilaian telah pun disediakan. Melalui lampiran 134, PS telah memfailkan permohonan ke Mahkamah Tinggi di bawah s. 232(2) Akta Syarikat 1965 ('Akta') bagi upah dan kos yang telah dibelanjakan bagi kerja yang dibuat olehnya di antara 25 Mei 2006 dan 27 Jun F 2006 bagi jumlah RM544,562.78 di mana nilainya termasuk, antara lain, (i) RM333,919.50 bagi fi untuk dibayar kepada penilai profesional, Knight Frank, bagi laporan penilaian; (ii) RM185,792.25 dan RM4,844.83 bagi kos PS termasuk penyediaan laporan dan pelupusan alternatif Putra Place tersebut; dan (iii) RM13,043 bagi G kos peguamcara. Mahkamah telah menolak tuntutan PS untuk gaji profesional dan kos bagi kerja yang telah dibuat oleh beliau tetapi membenarkan tuntutan PS bagi kos peguamcara. Tidak berpuas hati dengan keputusan itu, perayu merayu ke mahkamah ini.

H **Diputuskan (menolak rayuan dengan kos)**
Oleh Ramly Ali HMR menyampaikan penghakiman mahkamah:

(1) Seorang penyelesai sementara boleh, di bawah s. 231 Akta, dilantik oleh mahkamah penggulungan pada bila-bila masa I selepas pengemukaan petisyen penggulungan dan sebelum perintah penggulungan dibuat. Penyelesai sementara

mempunyai dan boleh melaksanakan fungsi-fungsinya dan kuasa seorang pelikuidasi, tertakluk kepada had dan larangan seperti yang dinyatakan oleh syarat-syarat atau seperti diarahkan oleh mahkamah dalam perintah yang melantiknya. Penyelesai sementara, selain daripada pegawai penerima, layak menerima gaji atau upah sebegitu melalui peratusan atau seperti yang ditentukan oleh mahkamah.

(2) Dalam melaksanakan kuasanya untuk menentukan gaji atau upah penyelesai sementara, mahkamah mengguna pakai ujian berdasarkan apa yang adil dan munasabah untuk diberikan berdasarkan keadaan sesuatu kes, dengan mengambil kira, antara lain, kerumitan hal perkara terbabit dan jangka masa yang diambil untuk menghabiskan kerja yang diberikan kepada penyelesai sementara tersebut.

(3) Adalah matan bahawa perbelanjaan penyelesai sementara yang dikenakan pada aset-aset syarikat yang telah ditadbir oleh penyelesai sementara dan dipegang oleh mereka boleh dibayar balik. Beban adalah atas penyelesai sementara untuk membuktikan kelayakan beliau dalam menerima fi dan kos seperti dituntut dan bahawa upah sedemikian adalah wajar. Oleh itu, penyelesai sementara mempunyai obligasi untuk mengemukakan maklumat sokongan yang mencukupi kepada mahkamah bagi memudahkan mahkamah menentukan sama ada kos itu adalah munasabah atau tidak.

(3a) Pemfailan dan pengemukaan laporan oleh PS di sini tidak melayakkan upah untuk beliau. PS masih belum melepaskan beban membuktikan bahawa kos dan perbelanjaan yang ditanggungnya dalam menyediakan laporan telah diperolehi secara wajar dan munasabah.

(4) Bil-bil terperinci seperti yang diekshibitkan dalam afidavit menunjukkan nama pekerja, item/deskripsi, tarikh, kuantiti, kadar dan jumlah bil, tetapi tiada maklumat berkenaan kerja telah dinyatakan. Tambahan, PS yang telah melantik Knight Frank, penilai profesional dari Hong Kong, tidak mengemukakan sebarang keterangan untuk menunjukkan bahawa pandangan responden telah diperoleh sebelum pelantikan Knight Frank dibuat. Tiada keterangan yang menunjukkan, (i) sebarang alasan yang boleh diterima bagi pelantikan firma dari Hong Kong untuk membuat penilaian; (ii) bahawa fi yang dikenakan oleh Knight Frank adalah kompetitif; dan (iii) bahawa sebuah syarikat penilaian di Malaysia tidak boleh melakukan kerja tersebut.

(5) PS, setelah dilantik, mempunyai tanggungjawab fidusiari untuk bertindak secara adil dan bertindak bagi kepentingan responden. Dalam memungkiri tanggungjawab fidusiari ini, PS telah gagal untuk memastikan bahawa fi atau harga yang diperolehi adalah kompetitif.

(6) Skop pelantikan PS adalah hanya untuk mendapatkan penilaian Putra Place dan untuk mencari alternatif bagi pelupusannya. Dalam laporan yang dikemukakan, PS telah membuat dapatan berkenaan pengurusan Putra Place, yang tidak mempunyai sebarang kaitan dengan mandat yang telah diberikan kepada beliau. Isu salah pengurusan Putra Place tidak terdapat dalam skop penilaian dan pelupusan alternatif. Oleh itu, PS telah melampaui skop pelantikannya dan telah gagal membuktikan kepada mahkamah bahawa tuntutan bagi upah dan kos seperti dituntut melalui lampiran 134 adalah adil dan munasabah.

[Jumlah yang dituntut oleh PS adalah untuk ditentukan oleh Timbalan Pendaftar, berdasarkan kerja sebenar yang dibuat oleh beliau. Tambahan, keputusan Mahkamah Tinggi dalam membenarkan RM13,043 untuk dibayar sebagai kos peguamcara bagi penyediaan laporan PS telah disahkan].

Case(s) referred to:

Re Econ Corp Ltd (In Provisional Liquidation) (No 2) [2004] SGHC 49 [2004] 2 SLR 264 ***(refd)***

Re Pac-Asian Services Pte Ltd [1987] 1 LNS 122 HC ***(refd)***

Venetian Nominess Pty Ltd v. Conlan [1998] 16 ACLC 1653 ***(refd)***

Legislation referred to:

Companies Act 1965, ss. 231, 232(2)

Other source(s) referred to:

Kerr on the Law and Practice as to Receivers and Administrators, 17th edn, pp 231 & 232

For the appellant - SY Ng (SY Hew with him); M/s Raja, Darryl & Loh
For the respondent - Ken Wayne Goik; M/s Dennis Nik & Wong

[Appeal from High Court, Kuala Lumpur; Companies (Winding-up) Petition No: D4-28-258-2005]

Reported by Kumitha Abd Majid

JUDGMENT

Ramly Ali JCA:

[1] The appellant in the present appeal is the previous provisional liquidator (PL) appointed by the court for the respondent company, Metroplex Berhad. The appeal is against part of the High Court order dated 11 October 2009 dismissing her claim for professional remuneration and costs for her work done between 25 May 2006 and 27 June 2006.

Brief Facts

[2] The respondent through its subsidiary, Metroplex Holdings Sdn Bhd (MHSB), which owns the building known as Putra Place, had entered into a sale and purchase agreement with the Employees' Provident Fund (EPF) to sell the building for RM438.33 million. The petitioner in the winding-up proceedings (Morgan Stanley Emerging Markets Inc) against the respondent company applied by way of an injunction to restrain the completion of the said EPF sale for a variety of reasons, including, *inter alia* that the sale price was at an undervalue. For the purpose of the said injunction application, the court made an order dated 23 May 2006 appointing Ms Kuan Mei Ling, now deceased as the provisional liquidator for specific purpose only:

(a) to ascertain disposal alternatives for Putra Place;

(b) to submit a report before the third week of June as to the current market value of Putra Place and details of any offers and expressions of interest for the purchaser thereof; and

(c) the parties were to attend before the court on 27 June 2006.

[3] On 15 June 2006, the petitioner (Morgan Stanley) obtained a supplementary order to include another component of Putra Place, ie, the Legend Hotel into the valuation report. All those reports and disposal alternatives were simply to enable the court to determine whether the court should grant the petitioner (Morgan Stanley) the injunction it sought to restrain the sale of Putra Place to EPF.

[4] On 27 June 2006, the petitioner (Morgan Stanley) withdrew the application for the injunction and Ms Kuan's appointment pursuant to the PL orders set on 15 June 2006 was set aside. Consequently the purpose of the PL's appointment to ascertain disposal alternatives as earlier ordered by the court became

redundant. Subsequently, the court ruled that the respondent company be responsible for the PL's remuneration subject to the court's overview as to the reasonableness of the quantum thereof.

[5] In the meantime, it is not in dispute that the valuation reports were duly prepared and produced; and was placed before the court and sent to the relevant parties. *Vide* encl. 134, on the strength of the earlier court orders, the PL filed an application to the court under s. 232(2) of the Companies Act 1965, for remuneration and costs incurred for work done between 25 May 2006 and 27 June 2006 for an amount of RM544,562.78 comprising of:

(a) RM333,919.50 and HKD16,000 being the fees payable to the professional valuers, Knight Frank, in respect of the valuation reports;

(b) RM185,792.25 and RM4,844.83 being the PL's costs involved in preparing the report on the disposal alternatives for the said Putra Place; and

(c) RM13,043 being solicitors costs.

Decision Of The High Court

[6] The learned High Court Judge made the following order:

> Enclosure 134 is allowed partially in that prayer 1 is to be referred to Deputy Registrar to determine the reasonable amount claimed by the Provisional Liquidator. In determining the amount the Deputy Registrar is to go through the tasks and work carried out by the Provisional Liquidator as listed in Exhibit AG-6 in Core Bundle Volume 3 dated 22 July 2009. The Deputy Registrar is to be guided by the terms of the Court order dated 23 May 2006 appointing the Provisional Liquidator and Court order of 26 June 2006. The Deputy Registrar also to give consideration in determining the fair claim for remuneration by the Provisional Liquidator to the issue whether the Provisional Liquidator had performed the task required of her under the Order dated 23 May 2006 ie, to recommend alternative disposal of the property involved.
>
> Prayer two is dismissed except that a sum of RM13,043.00 to be paid out as solicitors costs in the preparation of the Provisional Liquidator's report.
>
> Cost to the Respondent on party and party basis.

The Appellant's Contentions

[7] Before this court, the appellant contended as follows:

(a) the PL was mandated by the orders of court dated 23 May 2006 and 15 June 2006 to prepare an independent report on the disposal alternatives for the Putra Place; and the PL had duly complied with the instruction by the court to complete the task within a certain time frame;

(b) in denying outright the prayer for the costs of procuring the reports - in effect punishing the PL for fulfilling her mandate and leaving the PL to pay from her own pocket;

(c) the PL had referred to the scale offered by local valuers and found out that the fees charged by local valuers is higher than the fees charged by Knight Frank - ie, RM40,000 below the scale for such costs based on the rates set out by the Board of Valuers, Appraisers and Estate Agent, Malaysia;

(d) the respondent had failed to adduce evidence to show that the fees charged by Knight Frank were unreasonable; and the judge had erred in failing to consider the evidence before him on the crucial issue of reasonableness of the quantum of fees;

(e) the PL had invited (2) internationally reputed valuers, notwithstanding the time constraint, to submit quotas for the valuation reports ie, DTZ and Knight Frank; it is not true to say that the PL had failed to consider other alternatives, besides Knight Frank; and

(f) the valuation made by Knight Frank were proper; and it was clearly obtained in compliance with the orders of the court, not on a frolic of the PL own choice.

The Respondent's Contentions

[8] The respondent, on the other hand contended that:

(a) the PL's reports were based on matters which were irrelevant;

(b) the conclusions drawn in the reports were manifestly erroneous;

(c) the PL was not impartial and that the reports were obviously biased against the respondent; and

(d) the reports were unduly favourable to its cause and hence the court should release the respondent of its obligation to remunerate the PL.

A **Our Findings**

[9] A provisional liquidator may under s. 231 of the Companies Act 1965, be appointed by the winding-up court at any time after the presentation of a winding-up petition and before making of a
B winding-up order. The provisional liquidator shall have and may exercise and the functions and powers of a liquidator subject to such limitations and restriction as may be prescribed by the rules or as the court may specify in the order appointing him.

C **[10]** A provisional liquidator, other than the official receiver shall be entitled to receive such salary or remuneration by way of percentage or otherwise as is determined by the court (see: s. 232(2) of the Companies Act 1965).

[11] In the present case, the PL (Ms Kuan Mei Ling - deceased)
D was validly appointed by the court. The limitation and restriction imposed by the court in the appointment was that the said appointment was for specific purpose only, ie, the PL was to ascertain the disposal alternatives of Putra Place; to submit a report before the 3rd week of June as to the current market
E value of Putra Place and details of any offers and expressions of interest for the purchase thereof; and the parties were to attend before the court on 27 June 2006.

[12] In exercising its power in determining the salary or
F remuneration of a PL, the court applies the test of what is fair and reasonable remuneration to be awarded in the circumstances of each particular case, taking into consideration, among others, the complexity of the matter involved and the length of time taken to complete the task given to the PL.

G **[13]** A good guidance on this matter is to be found in *Kerr on the Law and Practice as to Receivers and Administrators*, 17th edn. at pp. 231-232, where it states:

> A Receiver will, unless it is otherwise ordered, or unless he
> H consents to act without a salary, be allowed a proper salary, or have allowances made to him for his care and pains in the execution of his duties and such remuneration may be fixed by reference to such scales or rates of profesional charges as the Court thinks fit.
>
> I The practice at the present time in the Chancery Division is to allow remuneration on the basis of a *quantum meruit*, according to the time, trouble and degree of responsibility involved.

> A remuneration statement setting out first a brief description of the work done by the receiver and secondly a time account is required.

[14] Even though the above passage refers to remunerations of a receiver, it applies equally to remunerations of a PL, on the same principle. In *Re Pac-Asian Services Pte Ltd* [1987] 1 LNS 122; [1988] 1 MLJ 371, it was held by the Singapore High Court that:

> the Provisional Liquidators appointed by court stand in precisely the same position as a court appointed receiver and they were entitled to be paid their just remuneration and be reimbursed of the expenses properly incurred out of the assets of the company that were administered by the Provisional Liquidators and were held by them. Accordingly, until determined by the court, they also have a lien over these assets up to an amount equivalent to their total claims.

[15] There are several factors the court would consider in determining the appropriate amount of remuneration to be paid to the PL. The main one is the complexity of the matter involved and the time taken or spent on the particular matter. Other factors include, the reasonableness of the charge out rate, the effectiveness of what was done and the overall functions and responsibilities of the PL. (See: *Re Econ Corp Ltd (in provisional liquidation) (No. 2)* [2004] SGHC 49 [2004] 2 SLR 264 - Singapore High Court).

[16] It is trite that the PL may be reimbursed of the expenses properly incurred out of the assets of the company that were administered by the PL and were held by them. The burden is on the PL to show her entitlement to the fees and costs that she claimed. The PL must show that her remuneration is justified. Therefore, the PL is on an obligation to provide sufficient supporting information before the court in order to facilitate the court to determine whether the costs are reasonable or not. (See: *Venetian Nominess Pty Ltd v. Conlan* [1998] 16 ACLC 1653). The mere filing and producing of the reports by the PL does not as a matter of course entitle her to her remuneration. The PL still has to discharge the burden of showing that the costs and expenses incurred in producing the reports are properly and reasonable incurred.

[17] In the present case, the learned High Court Judge, in coming to his decision, has applied the correct principles of law as narrated above, based on the authorities cited. The learned judge has considered all the relevant facts and factors available before him.

[18] In the present case, the PL's application (encl. 134) had came before the court on an earlier hearing date but the court found that the bills submitted by the PL were insufficient and the court directed the PL to present a more detailed bill. This detailed bill appears in the form of a listing in an exhibit (exh. AG6) to the affidavit of one Arulendran Gunendran affirmed on 22 October 2007. The bill merely sets out unidentified persons, their billable rates and the number of hours spent by them.

[19] We have scrutinised the details of the exh. AG6 produced by the PL. It merely shows the employee's name, item/description, date, quantity, rate and amount of the bill, but no details of the work done were stated. The learned judge had given his full grounds as to why he came to his conclusion that the bill produced was insufficient to support the PL's claim. The learned judge has touched on the issues of the short tenure of the PL's appointment between 25 May 2006 to 27 June 2006 (ie, slightly more than a month's work); the bill was not particularised; an account as to why Ricole Tan, an employee of the Hong Kong firm of Alvarez and Marshall, was retained to carry out the work; the discrepancy as to the hours billed; the PL has not done the work herself and has not signed any of the reports tendered.

[20] The PL has appointed Knight Frank to prepare the reports. Knight Frank is a professional valuer based in Hong Kong commissioned by the PL pursuant to the two court orders. The valuer's fees in preparing the reports was a mere 0.1% of the value of the property in question. The learned judge had correctly held that there is no evidence to show that the views of the respondent were sought before the appointment of Knight Frank was made by the PL. There is also no evidence to show any compelling reason for the appointment of the Hong Kong firm to do the valuation. It was also not shown that a local Malaysian valuation firm could not have done the job. There is also no evidence to show that the fees charged by Knight Frank were competitive. It must be stressed that the PL, once appointed, owed the respondent a fiduciary duty to act fairly and objectively in the interest of the respondent. The learned judge had correctly concluded that in breach of this fiduciary duty the PL had failed to ensure that the fees or prices obtained was competitive.

[21] The learned judge had also considered the value of the properties in question (Putra Place) as valued by Knight Frank and the original value by CH William Talhar (local firm). The

marginal difference between the two valuations is only 0.98%. The learned judge had given detailed explanation on the difference between the two valuations in his grounds of judgment. We find that the learned judge was correct in his finding that the sale of the properties to EPF on an 'as is where is basis' is not at an undervalue; and therefore the reports by Knight Frank must be viewed critically.

[22] The learned judge had also considered whether the PL had exceeded the scope of her appointment and if so, whether she is entitled to claim her remunerations. Based on the earlier two orders of the court the scope of the PL's appointment was merely to obtain valuations of Putra Place and to find out alternatives for its disposal. In the reports produced, the PL also made findings as to the management of Putra Place, which to the learned judge, has nothing to do with the mandate given to her. The judge was correct in finding that the issue of mismanagement of Putra Place is not within the scope of valuation and disposal alternatives and therefore in concluding that the PL had exceeded the scope of her appointment.

Conclusion

[23] Based on the above considerations, we are of the considered view that the learned judge had come to a correct decision in dismissing the PL's application. We affirm the said decision. It is appropriate for the learned judge to refer the matter (prayer 1 of PL's application) to the Deputy Registrar to determine the reasonable amount claimed by the PL, based on the actual work carried out by the PL. We also affirm the decision of the learned judge in allowing a sum of RM13,043 to be paid out as solicitors costs in the preparation of the PL's reports. We find no reason to interfere with the decision. In the premise, we are in agreement with the learned High Court Judge that the PL has failed to convince the court that her claim for remunerations and costs as claimed *vide* encl. 134, is fair and reasonable.

[24] We therefore dismiss the appeal with costs of RM10,000 to the respondent. We also make an order that the deposit be paid to the respondent on account of costs.